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Office of Policy
Office of Economic, Electricity and Natural Gas Analysis
PO-21
U.S. Department of Energy
Forrestal Building
Room 7H-034
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Attention: Electric Reliability Comments

COMMENTS OF MINNESOTA POWER

I. Introduction and Summary of Comments

Minnesota Power is pleased to offer its comments on the Department of Energy's (DOE) Notice of Inquiry (NOI) on Electric Reliability Issues, published at 65 *Fed. Reg.* 68753 (November 20, 2000). Minnesota Power is a low-cost electric utility that generates, transmits, distributes, and markets electricity to some 144,000 customers in Northeastern Minnesota and Northwestern Wisconsin. The company serves some of the largest industrial customers in the United States - companies whose operations depend on a reliable supply of electricity. The reliability of the interconnected transmission system is critical to Minnesota Power being able to meet the needs of its customers. The company is a subsidiary of ALLETE (NYSE: ALE), a multi-services company with corporate headquarters in Duluth, Minnesota. Other ALLETE holdings include the second largest wholesale automobile auction network in North America; the leading provider of independent auto dealer inventory financing; the largest investor-owned water utilities in Florida and North Carolina; significant real estate holdings in Florida.

Minnesota Power strongly supports the enactment of legislation that would establish a self-regulating reliability organization subject to FERC oversight. Such an organization has been proposed and is widely acknowledged to be necessary to meet the changing demand on the utility grid resulting from restructuring in the electric industry.

Minnesota Power also believes that, under current law, FERC lacks the full authority necessary to impose mandatory electric reliability standards in a comprehensive and meaningful fashion.

The NOI's stated goal is to improve the long-term reliability of the interstate electric transmission system. One aspect of the long-term solution is obvious: the United States desperately needs more transmission capacity. Without additional transmission capacity, long-term reliability of our electricity supply cannot be assured for America's consumers and businesses.

II. Comments

A. Legislation Is Needed To Create A New System to Implement and Enforce Mandatory Electric Reliability Rules.

The NOI asked for input as to whether DOE should require FERC to initiate a rulemaking proceeding to impose mandatory electric reliability standards. Minnesota Power believes that a FERC rulemaking is no substitute for the enactment of federal legislation to establish a self-regulating reliability organization (SRRO) to oversee the operation of the bulk power system.

With respect to reliability matters, the Commission has traditionally deferred to judgments made by the North American Electric Reliability Council (NERC) and the regional reliability organizations.[1] The Commission has not sought to assume responsibility for reliability regulation, and in fact has sought to limit its involvement to those areas in which its existing regulatory jurisdiction over rates and policies is affected by actions of the reliability organizations. In Minnesota Power's judgment, the Commission has acted correctly in deferring to the expertise of the industry organizations in connection with reliability technical and planning issues.

As a result of the approach taken by the Commission, there is no certainty that under existing law the Commission has the authority to mandate and enforce reliability standards. Separate and apart from the question of FERC's authority to implement and enforce reliability rules acting on its own, it is difficult to see how FERC could delegate whatever presumed authority it has to a SRRO that has not received the imprimatur of federal authority through legislative action. Nor is it clear how FERC could claim to have authority to sanction through regulation the establishment of such an entity, and to provide the authorization needed for an SRRO to function effectively to administer an enforceable reliability regime.

[1] *See, e.g.*, Western *Systems Coordinating Council*, 87 FERC ¶61,060 (1999), in which the Commission gave "substantial deference" to the WSCC in reliability matters.

The model of industry self-regulation has many strengths, which the Commission and DOE have acknowledged over the years. Most importantly, the industry is the repository of the technical expertise necessary to make any reliability system function. The most effective means available must be used to make sure that this industry expertise is brought to bear as the reliability regulatory structure is overhauled. Minnesota Power believes that this requires Congress to act at the earliest possible time.

B. Other Interrelated Issues Must Be Addressed To Assure Reliability.

Unfortunately, the reliability questions that plague the bulk power supply issue today cannot simply be addressed by constituting an SRRO and empowering it to establish mandatory reliability rules, with FERC enforcement. The root causes of the grid's reliability problems must be addressed in a coordinated fashion.

One area of particular concern is transmission capacity. Whether mandatory or voluntary, reliability standards will only work when the necessary transmission infrastructure is in place and available. Mandatory standards are more urgently needed when, as now, the nation lacks the infrastructure necessary to keep power flowing.

NERC has documented the serious crisis facing the nation in terms of transmission capacity. In its Reliability Assessment 2000-2009, issued in October 2000, NERC concludes that for the near term, the transmission system is "expected to operate satisfactorily." Yet already we have examples of circumstances in which the transmission system is not operating satisfactorily, or in a manner sufficient to meet the needs of consumers for reliable power. California's recent experience provides incontrovertible evidence of the inherent dangers inherent of failing to make the investments necessary to increase our ability to transmit power.

While the problems in the West have received the bulk of recent attention, transmission constraints are not limited to California. The November 1 FERC Staff Report on U.S. Bulk Power Markets examined the regions of the country, and concluded that transmission system constraints in other parts of the grid reduced the ability to move power to the Midwest from other regions.[2] The use of transmission loading relief increased dramatically in the region between the summer of 1999 and the summer of 2000.

On the whole, according to the NERC study, loadings on the transmission system are increasing steadily with demand, and flows in magnitudes and directions never contemplated are occurring. These new flow patterns are resulting in more facilities being identified as limits to transfers, and transmission loading relief (TLR) procedures are being required in areas that have not previously been subject to overloads in order to maintain the transmission system within operating limits. Increasing use of transmission

[2] *See* Part II of Staff Report on U.S. Bulk Power Markets at page 2-9 (November 1, 2000).

loading relief procedures signals the pervasive congestion in many areas of the interstate transmission network. *See generally* NERC study at 29.

The potential for disaster becomes clear when you factor in the reality that there are very few major additions to the transmission network planned for the near term. According to NERC, only 8,445 miles of transmission facility additions (defined as 230kV lines and above) are planned throughout North America over the next 10 years.[3] This represents only a 4.2% increase in total installed circuit miles, at a time when projections are that electricity demand will grow by nearly 2% per year. Most of these additions are being planned to address local transmission concerns, and thus will not help to alleviate the constraints facing long-distance power transfers. The NERC Reliability Assessment reports that "unless proper incentives can be developed to encourage investment in new transmission facilities and siting problems can be resolved, few new transmission facilities and reinforcements will be constructed."

It does not matter how much new generation comes on line if that power cannot be delivered to the areas in which it is needed. Without a reliable transmission system, there can be no competitive market.

In these circumstances, it would be irresponsible to focus on mandatory reliability rules to the exclusion of other pressing issues such as increasing transmission capacity. DOE and FERC should work with industry to encourage investment in new transmission infrastructure. This means resolving the regulatory uncertainties associated with cost recovery for investments in transmission lines, and addressing siting issues.

IV. Conclusion

For the foregoing reasons, Minnesota Power urges the Department of Energy, and the FERC, to join in efforts to expedite the consideration of legislation by Congress that can address the interrelated issues affecting electricity reliability. This should include, in addition to the creation of a self-regulatory organization to establish mandatory reliability requirements with FERC oversight and support, measures to encourage needed investments to increase the capacity of the transmission system.

Respectfully submitted,

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[3] NERC study at 31.